

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8765 of 1995

For Approval and Signature:

Hon'ble Justice Mr.N.N.Mathur,

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VIJAYBHAI NATWARLAL AMIN

Versus

COLLECTOR OF AHMEDABAD

Appearance:

MR MUKESH R SHAH for Petitioner

CORAM : N.N.MATHUR,J.

Date of decision: 27/08/96

ORAL JUDGEMENT

Heard Mr.M.R.Shah, learned counsel for the petitioner.

It is stated that the Establishment Committee of Dehgam Nagar Palika passed a resolution appointing the respondent No.3-Gordhanbhai. P. Parekh as Chief Officer of the said Nagar Palika. However, this resolution was not approved by the resolution of the General Board dated 11-4-1991. It appears that inspite of the fact that the resolution was not aproved, one I.K.Parmar filed a petition before this Court under the label of Public Interest Litigation challenging the appointment of respondent No.3 Mr.Parekh. This petition registered as Special Civil Application No.5225 of 1991. The said petition was subsequently withdrawn. However, during the pendency of the petition, this Court modified ad interim order with the clerification that it will be open to Municipality to consider the question as to whether said Shri Parekh shall continue or not and the Municipality shall also consider the question regarding payment of salary to said Shri Parekh. In view of this order, the

Establishment Committee again considered the matter and took a view that as the General Board of the Nagar Palika has not approved the resolution of appointment of Shri Parekh and further the fact that no charge was handedover to him, further action was not required to be taken. This resolution of the Establishment Committee was confirmed by the order of the General Board dated 11-4-1991. The said resolutions of the Establishment Committee as well as of the General Board were challenged before the Collector under the provisions of Section 258 of the Gujarat Municipalities Act. The Collector by exercising powers under Section 258 permanently stayed the resolution of the Standing Committee dated 22-10-1992 and 11-4-1991. The effect of the order of the Collector was understood as if respondent No.3 is to continue as Chief Officer. The petitioner-formner Chairman of the Dehgam Nagar Palika challenged the order of the Collector by way of Revision Application before the State Government. The said Revision Application had been rejected by the State Government by order dated 8-4-1995. The contention of the petitioner is that he was not heard by the State Government before dispossing of this application. It is also stated that the decision of the Collector dated 8-7-1993 has also been challenged before this Court by two members of the Dehgam Nagar Palika. The said Special Civil Application has been registered as 4856 of 1994. The said application has been admitted for hearing and interim order is also continued. In view of the fact that there is already a petition pending before the Court involving the same question, it is not desirable to entertained this Special Civil Application more particularly at the instance of the former President of the Nagar Palika. In view of this, Special Civil Application is rejected. It will be open for the petitioner to make an appropriate application to intervene in Special Civil Application No.4856 of 1994.

Disposal of this Special Civil Application will not prejudiced the contention of the parties in the pending Special Civil Application. This Special Civil Application is accordingly rejected.

Date : 27-8-1996.

(N.N.Mathur, J.)

